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DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-20267]

[PPWOCRADN0-PCU00RP14.R50000]

Notice of Inventory Completion: Tennessee Valley Authority, Knoxville, TN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Tennessee Valley Authority (TVA) has completed an inventory of human remains and associated funerary objects in consultation with the appropriate Federally recognized Indian tribes and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day federally recognized Indian tribes. Representatives of any federally recognized Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to Tennessee Valley Authority. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the federally recognized Indian tribes stated in this notice may proceed.

DATES: Representatives of any federally recognized Indian tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to TVA at the address in this notice by **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Dr. Thomas O. Maher, Tennessee Valley Authority, 400 West Summit Hill Drive, WT11D, Knoxville, TN 37902-1401, telephone (865) 632-7458, email tomaher@tva.gov.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control and possession of TVA. The human remains and associated funerary objects were removed from site 40SM113, in Smith County, TN, in 1976.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains and associated funerary objects was made by TVA's professional staff. Representatives of the following tribes were notified on January 29, 2015: Absentee-Shawnee Tribe of Indians of Oklahoma; Alabama-Coushatta Tribe of Texas (previously listed as the Alabama-Coushatta Tribes of Texas); Alabama-Quassarte Tribal Town; Cherokee Nation; Coushatta Tribe of Louisiana; Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Kialegee Tribal Town; Shawnee Tribe; The Chickasaw Nation; The Muscogee (Creek) Nation; Thlopthlocco Tribal Town; and the United Keetoowah Band of Cherokee Indians in Oklahoma. A telephone conference to consult on this repatriation took place on April 24, 2015, with tribal representatives of the Eastern Band of Cherokee Indians, The Muscogee (Creek) Nation, and the United Keetoowah Band of Cherokee Indians in Oklahoma. The inability to determine whether aboriginal lands were implicated in this NAGPRA disposition led to further consultation with the tribes on June 15, 2015.

As a result of this further consultation, TVA received requests for joint transfer of control of the human remains and associated funerary objects from the Cherokee Nation, the Eastern Band of Cherokee Indians, the Eastern Shawnee Tribe of Oklahoma, The Muscogee (Creek) Nation, the Thlopthlocco Tribal Town, the Shawnee Tribe, and the United Keetoowah Band of Cherokee Indians in Oklahoma. No

objections to this joint transfer of control were received from the Alabama-Coushatta Tribe of Texas (previously listed as the Alabama-Coushatta Tribes of Texas), the Alabama-Quassarte Tribal Town, the Chickasaw Nation, and the Coushatta Tribe of Louisiana.

History and description of the remains

In April 1976, human remains representing, at minimum, one individual were removed from the Dixon Creek site, 40SM113. The Dixon Creek site, 40SM113, was first recorded in 1972 as SI-1 (Surface Indication 1) by Major McCollough of the University of Tennessee (McCollough 1972). Under contract with TVA, Steven Fox completed additional survey work between 1974 and 1976. In April 1976, four test units were excavated. Test Unit 4 uncovered the only human remains and associated funerary objects found at this site. A single adult male Native American was interred in a semi-flexed position within a 5 x 4 foot burial pit. No known individuals were identified. The two associated funerary objects are two shell-tempered ceramic vessels.

The vessels found with the human remains appear to place the burial in the Middle Cumberland Mississippian period, A.D. 1050 – 1450. The lack of any detailed information on these human remains and funerary objects leads TVA to designate them as culturally unidentifiable.

Site 40SM113 is in Smith County, TN, north of the Cumberland River. The site is outside the boundary of any areas recognized in a final judgment of the Indian Claims Commission or the United States Court of Claims. Although there are no treaties between the United States Government and a Native American tribe for this area, there was a treaty negotiated before the creation of the U.S.A. Richard Henderson, representing the Transylvania Company, met with the Cherokee to negotiate the purchase of land including Smith County, TN, for the creation of a 14th colony on March 14, 1775. The Treaty of Sycamore Shoals was not acknowledged by the United States Government or the governments of the states of Virginia and North Carolina. An unratified treaty cannot be used to identify aboriginal lands (75 FR 49, March 15, 2010).

Pursuant to 43 CFR 10.16, the Secretary of the Interior may make a recommendation for a transfer of control of culturally unidentifiable human remains and associated funerary objects. Tennessee

Valley Authority requested that the Secretary, through the Native American Graves Protection and Repatriation Review Committee, recommend the proposed transfer of control of the culturally unidentifiable human remains and associated funerary objects in this notice to the Cherokee Nation, the Eastern Band of Cherokee Indians, the Eastern Shawnee Tribe of Oklahoma, The Muscogee (Creek) Nation, the Thlopthlocco Tribal Town, the Shawnee Tribe, and the United Keetoowah Band of Cherokee Indians in Oklahoma. No objections to this joint transfer of control were received from the Alabama-Coushatta Tribe of Texas (previously listed as the Alabama-Coushatta Tribes of Texas), the Alabama-Quassarte Tribal Town, the Chickasaw Nation, and the Coushatta Tribe of Louisiana.

Determinations made by the Tennessee Valley Authority

Officials of TVA have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains and associated funerary objects described in this notice are Native American based on their presence in prehistoric archeological contexts.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the two objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.
- Pursuant to 43 CFR 10.11, the “tribal land” or the “aboriginal land” provenience of the human remains cannot be determined.
- Pursuant to 43 CFR 10.16, the disposition of the human remains and associated funerary objects will be to the Cherokee Nation, the Eastern Band of Cherokee Indians, the Eastern Shawnee Tribe of Oklahoma, The Muscogee (Creek) Nation, the Shawnee Tribe, the Thlopthlocco Tribal Town, and the United Keetoowah Band of Cherokee Indians in Oklahoma for a joint disposition of the

human remains and associated funerary objects to these federally recognized tribes.

Additional Requestors and Disposition

Representatives of any federally recognized Indian tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. Thomas O. Maher, Tennessee Valley Authority, 400 West Summit Hill Drive, WT11D, Knoxville, TN 37902-1401, telephone (865) 632-7458, email tomaher@tva.gov, by [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**]. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Cherokee Nation, the Eastern Band of Cherokee Indians, the Eastern Shawnee Tribe of Oklahoma, the Shawnee Tribe, The Muscogee (Creek) Nation, the Thlopthlocco Tribal Town, and the United Keetoowah Band of Cherokee Indians in Oklahoma may proceed.

TVA is responsible for notifying the Absentee-Shawnee Tribe of Indians of Oklahoma; Alabama-Coushatta Tribe of Texas (previously listed as the Alabama-Coushatta Tribes of Texas); Alabama-Quassarte Tribal Town; Coushatta Tribe of Louisiana; Cherokee Nation; Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Kialegee Tribal Town; Shawnee Tribe; The Chickasaw Nation; The Muscogee (Creek) Nation; Thlopthlocco Tribal Town; and the United Keetoowah Band of Cherokee Indians in Oklahoma that this notice has been published.

Dated: February 4, 2016

Melanie O'Brien,

Manager, National NAGPRA Program.

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